

BUREAU OF REFUGEES, FREEDMEN, AND ABANDONED
LANDS.

[To accompany H. Res. 128.]

LETTER
FROM
THE SECRETARY OF WAR,

TRANSMITTING

A communication from the Assistant Adjutant-General of the Army in charge of the late Bureau of Refugees, Freedmen, and Abandoned Lands, and recommending such legislation as will enable the officers of the Treasury Department to make new settlements in favor of certain colored claimants.

JUNE 9, 1876.—Referred to the Select Committee on the Freedman's Bank.

JUNE 20, 1876.—Recommitted to the Committee on the Freedman's Bank and ordered to be printed.

WAR DEPARTMENT,
June 7, 1876.

The Secretary of War has the honor of transmitting to the House of Representatives a communication from the Assistant Adjutant-General in charge of the late Bureau of Refugees, Freedmen, and Abandoned Lands, requesting such legislation as will enable the accounting-officers of the Treasury to make new settlements in favor of certain colored claimants, in cases where it may be shown that they have not received from the late Freedmen's Bureau the payments and funds represented by the vouchers now filed with the Second Auditor.

In explanation, attention is invited to the correspondence between the War Department and the honorable Secretary of the Treasury on the subject, and the recommendation of the Adjutant-General's Office for early action.

H. T. CROSBY,
Chief Clerk,
For the Secretary of War, in his absence.

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., June 6, 1876.

GENERAL: Referring to the subject of complaint cases, or those in which claimants allege that they have not received from the late Bureau of Refugees, Freedmen, and Abandoned Lands their pay and bounty-money, although the records of the Treasury Department show settlement of their claims, and vouchers have been filed by the late bureau as evidence of payment; and wherein there has been fraud on claimants whereby they have been deprived of the moneys awarded them by the United States, I have the honor to submit the subject, in order that the honorable Secretary of War may place it before Congress, with the view to such legislation as will enable the accounting-officers to make new settlements in cases where it may be shown that the claimants have not, in fact, received the payments represented by the vouchers filed in their respective claims.

The amount thus far involved is \$64,610.94, as follows:

| | |
|---|-----------------|
| Aggregate amount of claims that have been reported to the Second Auditor.... | \$49,390 80 |
| Reported to Second Auditor in cases where funds were not paid to claimants, but returned to the chief disbursing-officer by local agents..... | 15,220 14 |
| | <hr/> 64,610 94 |

A draught of a joint resolution herewith, marked A, will point to what is deemed necessary.

In order to a full understanding of the subject, it will be necessary to refer to the following summary:

Soon after the transfer of the late bureau to this office, the complaints had their initial, and the Adjutant-General's Office viewed that it could not take cognizance of any claims which the records of that bureau indicated as paid. The complaints of non-payment were transmitted to the Second Auditor of the Treasury, and on April 10, 1873, that officer addressed the following letter:

TREASURY DEPARTMENT,
SECOND AUDITOR'S OFFICE,
Washington, April 10, 1873.

SIR: I have the honor to state that numerous complaints are being made to this office by colored soldiers, or their heirs, of the non-receipt of their pay and bounty-money, although the records of the office show settlements of their claims, and the records of the late Freedmen's Bureau show payment of the proceeds of the Treasury certificates to the claimants.

Evidence presented to this office, as well as before the court-martial convened at Louisville, Ky., for the trial of John L. Graham and Benj. P. Runkle, shows conclusively that certain claimants have been defrauded of their money, and that in some instances the receipts and vouchers upon which the money is claimed to have been paid are false and fictitious, or procured upon fraudulent representations.

Under the act of Congress approved March 30, 1867, the settlement of the claims and payment to the Commissioner of the Freedmen's Bureau, is regarded as relieving the accounting-officers of the Treasury of further responsibility relating to the payment of the claims; but as these parties have valid claims against the Government, which ultimately will have to be paid, the question arises, what action shall the Government now pursue upon these complaints, with a view to its own protection and that of the claimants; whether the cases shall be investigated and prosecuted under the direction of the Secretary of War, or under the direction of the Secretary of the Treasury, through the Department of Justice?

As there are some cases now before me, in which criminal action is not barred by the statute of limitations, immediate action seems to be required; and this letter is addressed to you, that I may be informed of your views upon the subject.

I have the honor to be, very respectfully, your obedient servant,

E. B. FRENCH, Auditor.

The Hon. SECRETARY WAR.

Under date of April 15, 1873, reply was made by the Adjutant-General as follows:

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, D. C., April 15, 1873.

SIR: Referring to your letter of the 10th instant, as to complaints by colored claimants of the non-receipt of their pay and bounty-money, the records showing adjustment of the claims, and payment of the same, and asking whether "the cases shall be investigated and prosecuted under the direction of the Secretary of War or under the direction of the Secretary of the Treasury," I have to inform you that the Acting Secretary of War has decided that the War Department, through the Department of Justice, will undertake the prosecution of the parties connected with the preparation of the "false and fictitious" receipts and vouchers, or the "fraudulent representations."

To that end I will be pleased to have you transmit, through me, for the Secretary of War, all papers and evidence in your office bearing upon the cases.

Concert of action will be maintained, of course, between the Treasury and War Departments, through the proper officers, during the action now contemplated.

I am, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

The SECOND AUDITOR, *United States Treasury.*

On May 31, 1873, the Secretary of War placed the subject before the Attorney-General, and that officer in his opinion to Secretary of War said:

But the joint resolution of 1867 is very explicit. All money paid under that act is paid directly to the Commissioner, and it is enacted that "he shall be responsible for the safe custody and faithful disbursement of the fund intrusted to him." Nothing is said about any of the assistant commissioners, or about any disbursing officer, and although it was probably necessary, and undoubtedly was lawful, for the Commissioner to appoint and employ disbursing officers beside himself, nevertheless he is responsible civilly under this act for their acts, the same as if done by himself; and even if he took bonds from them directly to the Government, this cannot relieve him of such liability. The Government may enforce both securities in order to indemnify itself for any loss which, through the default of a subordinate officer, it may have suffered. This liability might, in some respects, be enlarged by the terms of the bond given by the Commissioner, but it, of course, could not be in the least diminished.

The Commissioner of the Freedmen's Bureau, therefore, is liable for all the losses sustained by the Government through the default of a subordinate disbursing officer, or other person employed by him in the disbursement of the moneys intrusted to him under the joint resolution of 1867.

When the subject reached the Howard court of inquiry, the court decided not to take testimony or to go into an examination to ascertain whether or not the complaints in the cases, then numbering one hundred and seventy-four, were valid, and the court found that the "Treasury officials testify that all these cases can be settled in the usual manner by them and were actually in process of settlement at the time [March 3, 1874] when this court met."

The subject thus stood, under the testimony of the accounting officers that they could (without further legislation) settle the cases, and that they were in actual process of settlement, until December, 1875, when the Secretary of War addressed the Secretary of the Treasury as follows:

WAR DEPARTMENT,
Washington City, December 18, 1875.

SIR: I have the honor to state that numerous complaints received at this Department and at the Office of the Second Auditor of the Treasury, from colored ex-soldiers and their representatives, alleging the non-receipt of their bounty, &c., which is shown by the records of the late Bureau Refugees, Freedmen and Abandoned Lands to have been paid to them, led to an arrangement, in April, 1873, between this Department and the Second Auditor, under which the original Treasury certificates issued in settlement of the claims referred to, the vouchers representing their payment, and any other necessary papers, furnished by the Auditor to this Department, have been regularly referred to the Department of Justice for such investigation as might be practicable, with the view of determining whether the complainants (claimants) had or had not, in fact, received payment of their claims.

Some one hundred and fifty (150) cases have been thus referred to the Department of Justice, a number of which have been received back and returned to the Auditor with evidence establishing, conclusively, that payment to the claimants has never been made.

In addition to the above, there were a large number of cases, representing a large aggregate sum, which it was discovered in the regular course of business in the Adjutant General's Office had not been paid, although vouchers representing payment had been filed by George W. Balloch, late chief disbursing officer Bureau Refugees, Freedmen and Abandoned Lands, with the accounting officers of your department, but that funds for payment of those cases, which had been sent by said George W. Balloch to various local agents of the bureau, had been by them returned to him, because of their inability to discover the claimants. These cases were duly and fully reported to the Second Auditor of the Treasury, for such action as, in his judgment, the importance of the subject might demand.

As yet, however, so far as this Department is informed, no relief has been afforded to any of the claimants of either class above referred to, some of whom are constantly writing to this Department, complaining of the hardship to which they have been subjected, and urging payment of the amounts to which they are entitled, under the evident belief that the responsibility for their payment, as well as for the unjust delay, attaches to this Department.

In consideration of the facts, as stated, and of the fact that the final disposition of the claims in question, by new settlements or otherwise, of necessity devolves upon the accounting officers of your Department, the subject is thus presented to you with the view to such action on your part as will place this Department in the possession of information as to the action contemplated by those officers, in cases of the claimants where it has been shown that they have never received payment, and the probable time that will elapse before such cases are finally disposed of.

It is respectfully submitted that simple justice to the claimants, who have already been too long deprived of their dues, entitles their claims to the most prompt and favorable consideration that a proper regard for the public interests will permit.

If under the existing laws the claimants can receive their dues, steps looking thereto should be taken. If, on the contrary, further legislation is requisite, action should be had looking to that.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The Hon. SECRETARY OF THE TREASURY.

Under date of December 24, 1875, the Secretary of the Treasury replied as follows:

TREASURY DEPARTMENT, *December 24, 1875.*

SIR: I have the honor to inform you that your letter of the 18th instant, concerning complaints of colored ex-soldiers alleging non-receipt of their bounty, has been received at this office and referred to the Second Auditor of this Department.

Very respectfully,

B. H. BRISTOW, *Secretary.*

Hon. W. W. BELKNAP,
Secretary of War.

On February 9, 1876, the Secretary of the Treasury was again addressed as follows:

WAR DEPARTMENT,
Washington City, February 9, 1876.

SIR: Referring to my letter of December 18th last, respecting certain complaints of colored ex-soldiers, &c., alleging the non-receipt of bounty, represented by vouchers filed in the Treasury Department to have been paid to them by the late Bureau Refugees, Freedmen and Abandoned Lands, I have the honor to invite attention to the fact that no information of the action had thereon has been received at this Department further than that conveyed by your letter of the 24th December, stating that mine of the 18th had been referred to the Second Auditor of the Treasury.

Upon the considerations that led to my previous letter, as therein stated, is now based the request that this Department may be furnished at the earliest practicable date with a reply covering the points of inquiry therein submitted.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The Hon. SECRETARY OF THE TREASURY.

Again, under date of March 29, 1876, no reply having to that date been received, the Secretary of the Treasury was addressed as follows:

[Special.]

WAR DEPARTMENT,
Washington City, March 29, 1876.

SIR: Referring to communications from this Department, dated, respectively, December 18, 1875, and February 9, 1876, relative to complaints of colored ex-soldiers, alleging the non-receipt of their bounties, &c., represented by vouchers filed in the Treasury Department to have been paid to them by the late Bureau of Refugees, Freedmen and Abandoned Lands, I have the honor to invite attention to the fact that to this time this Department has no reply or information in the matter further than that contained in your letter of December 24, stating that War Department letter of December 18 had been referred to the Second Auditor of the Treasury.

Viewing the subject as one involving important interests, fully referred to in previous communications, I beg to express the hope that such action as may be contemplated or necessary on the part of the accounting-officers may be had with the least possible delay, and that this Department may be promptly advised thereof.

With much respect, your obedient servant,

ALFONSO TAFT,
Secretary of War.

The Hon. SECRETARY OF THE TREASURY.

Replies were received as follows:

TREASURY DEPARTMENT, March 31, 1876.

SIR: I have the honor to acknowledge the receipt of your letter of the 29th instant, again calling my attention to your letter of December 18, 1875, relative to complaints of colored ex-soldiers, alleging the non-receipt of their bounties, &c., represented by vouchers filed in this Department, and asking that you may be informed as to the action that may be contemplated or thought necessary on the part of the accounting-officers.

Immediately upon the receipt of your letter first mentioned, I again called upon the Second Auditor for a report on the subject-matter, and I hand you herewith his reply, dated the 30th instant, which, it is thought, embraces all the information desired by your Department in this matter, and also explains the cause of the delay in making the report.

Very respectfully,

B. H. BRISTOW,
Secretary.

HON. ALFONSO TAFT,
Secretary of War.

SECOND AUDITOR'S OFFICE OF THE TREASURY DEPARTMENT,
March 30, 1876.

SIR: I have the honor to return herewith the letter of the Secretary of War of December 18, 1876, relating to the complaints "from colored ex-soldiers and their representatives, alleging the non-receipt of their bounty, &c., which is shown by the records of the late Bureau of Refugees, Freedmen and Abandoned Lands to have been paid to them."

By the joint resolution of Congress "in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs," approved March 29, 1867, it is provided "that all checks and Treasury certificates to be issued in the settlement of claims for pay, bounty, prize money, or other moneys due to colored soldiers, sailors, or marines, or their legal representatives, now residing, or who may have resided, in any State in which slavery existed in the year 1860, the claim for which has been or may be prosecuted by an agent or attorney, shall be made payable to the Commissioner of the Freedmen's Bureau, who shall pay the said agent or attorney his lawful fees and expenses, and shall hold the balance subject to the order of the claimants, on satisfactory identification; but no money shall be paid to any person except the claimant, or his or her legal representatives, if deceased; nor shall any power of attorney, transfer, or assignment of the amount of said claims, or any part thereof, be recognized or allowed by the Commissioner, or by any officer or agent acting under him; and it shall be the duty of the said Commissioner, the officers and agents of the Freedmen's Bureau, to facilitate, as far as possible, the discovery, identification, and payment of the claimants."

The second section provides "that the Commissioner of the Freedmen's Bureau shall be held responsible for the safe custody and disbursement of the funds hereby intrusted to him," and, after prescribing rules for settling with the attorney or agent of the claimant for fees and advances, also provides that "when the claimant shall have been properly identified and his account is ready for settlement, the balance due shall be paid in current funds and not in checks or drafts."

The resolution defines the powers and duties of the accounting-officers of the Treasury and of the Commissioner of the Freedmen's Bureau. All settlements were made in strict

compliance with it, and all certificates issued were in the name of General O. O. Howard, Commissioner of the Freedmen's Bureau, for the applicants. When this was done in any case, it is believed that the powers and duties of the accounting-officers are exhausted by such settlement, and that in a case where the Commissioner has filed vouchers showing payment to any soldier or his heirs, and the payment is denied to have been made and is again claimed by him, no new settlement can be made without further authority of Congress.

The only remedy existing at present seems to be against the Commissioner, (who was charged with the safe-keeping and disbursement of the money allowed by such settlements, and drawn by him,) when it has been satisfactorily ascertained that the claimants have not received the money for which vouchers have been furnished by him. In view of this, when a complaint of non-payment is received at this office, an investigation is at once commenced, and where a satisfactory conclusion cannot be reached by it, the case is forwarded to the War Department, to be referred to the Department of Justice for investigation.

There are now one hundred and thirteen cases in the hands of different United States attorneys, sixty of which are with the United States attorney for the district of Kentucky, nineteen are with the attorney for the western district of Missouri, seventeen are with the district attorney for Louisiana, nine with the district attorney for Mississippi, and the remainder are scattered in the several States.

About forty cases have been investigated and returned, and in twenty of these charges have been raised against the Commissioner, General O. O. Howard. He has also been charged in ninety-three other cases, where the vouchers furnished by him have been shown to have been false by the records of the late bureau, but there are very few of these ninety-three cases in which complaint has been made to this office of the non-receipt of the money by the original claimants.

There are also one hundred and thirty-nine cases now under examination in this office which have not been reported to the War Department or Department of Justice. In some of these cases the receipt of a portion of the money is admitted.

In some of these cases, reported by the War Department to this office, no complaint has been received; in many no replies to letters from this office have been received, while in others the notice that fraud is supposed to exist, is not of such a character as to warrant an expensive investigation.

I have not deemed it advisable to report a transcript of the account against the Commissioner, General O. O. Howard, to the Comptroller for suit, in view of the fact that, in so large a number of the cases transmitted to the Department of Justice for investigation, no report has yet been received, and as the number already reported is small, compared with the number under investigation.

It is presumed that the investigation of those cases will be prosecuted as rapidly as is practicable, and that it is not desirable to multiply suits against the Commissioner for the recovery of the money.

If a different opinion is entertained by you, the present condition of the account is such that it can be immediately reported for suit.

I sincerely regret the delay and the causes that have existed for a delay in making a report upon the letter of the Secretary of War.

About the time that the letter was received, I was consulted by the law-clerk of the Second Comptroller in relation to a reply to a letter from the Secretary of War, which I understood was of a similar import and addressed to the Comptroller; and being under the impression that the opinion of my superior officer must render such a report unnecessary, and being constantly occupied by my official duties, I gave the matter no further thought until called upon subsequently for a report.

I commenced it immediately, but found that it would be necessary to procure information from the files of the office, and directed a competent clerk to obtain it for me. This required considerable examination, and his work was interrupted by his forced attendance at court, so that several days elapsed before the information was obtained. Since that time I have been constantly occupied with pressing official duties, which, with illness and domestic affliction, have united to drive the subject from my mind.

Repeating the expression of my sincere regret, and with the assurance that there was no intentional delay in making the reply,

I am, sir, very respectfully,

E. B. FRENCH, *Auditor.*

A decision that legislation by Congress was requisite was thus reached, and the Secretary of War asked the Secretary of the Treasury to place the subject before Congress, with the view to certain legislation, by the following letter:

WAR DEPARTMENT,
Washington City, April 27, 1876.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, inclosing copy of the report of the Second Auditor of the Treasury, relative to claims for bounty, &c., of colored ex-soldiers represented by vouchers filed with the accounting-offi-

cers of the Treasury, to have been paid through the late Bureau of Refugees, Freedmen, and Abandoned Lands, but in which the claimants deny having ever received payment.

As from said report it appears that new settlements in the cases referred to cannot be made, "without further authority of Congress," and that "the only remedy existing at present seems to be against the Commissioner, when it has been satisfactorily ascertained that the claimants have not received the money for which vouchers have been furnished by him," it is respectfully urged that you will place the subject before Congress with the view to such legislation as will invest the accounting-officers with authority to issue new settlements in cases where it may be shown that the claimants did not in fact receive the payment represented by the vouchers filed in their respective claims.

The amount thus far involved is \$64,610.94, as follows :

| | |
|---|-----------------|
| Aggregate amount of claims that have been reported to the Second Auditor... | \$49,390 80 |
| Cases reported to Second Auditor in cases where funds were not paid to claimants, but returned to the chief disbursing-officer by local agents..... | 15,220 14 |
| | <hr/> 64,610 94 |

I need hardly suggest that considerations of justice to the claimants who have already suffered from long deprivation of their just dues, and who must endure greater hardship if forced to await the result of a protracted suit against the late Commissioner, should lead to prompt and earnest attention to this matter.

I will thank you to inform me of such action as may be taken by you under the request herein contained.

With much respect your obedient servant,

ALPHONSO TAFT,
Secretary of War.

The Hon. SECRETARY OF THE TREASURY.

On May 12, 1876, the Secretary of the Treasury replied as follows:

TREASURY DEPARTMENT, *May 12, 1876.*

SIR: I have the honor to acknowledge the receipt of your letter of the 27th ultimo, relative to claims for bounty, &c., of colored ex-soldiers, represented by vouchers filed with the accounting-officers of the Treasury to have been paid through the late Bureau Refugees, Freedmen, and Abandoned Lands, but in which the claimants deny having ever received payment.

As no new settlements can be made in these cases without further legislation, you urge that the subject be placed before Congress by this Department, with a view to obtaining such legislation as will invest the accounting-officers of this Department with authority to issue new settlements in cases where it may be shown that the claimants did not, in fact, receive the payments represented by the vouchers filed with their respective claims.

In reply, I have the honor to inform you that, under the peculiar system by which the claims for bounty, &c., to which you refer, were settled and paid, the money arising therefrom was turned over by this Department to the Commissioner of the Bureau Refugees, Freedmen, and Abandoned Lands, and their amounts then became charges in his accounts.

In making disbursements of this money, it is alleged that the Commissioner paid out a portion thereof upon improper identification of the claimants. It is held that the Commissioner is personally responsible for such erroneous payments; but, until the amount shall have been recovered from him, the proper claimant is debarred from receiving his just and proper dues.

From this it appears that the purpose of the legislation, which you ask me to urge, is to remove certain difficulties arising from an alleged improper payment by the said Commissioner of money received by him upon adjusted claims, as before stated.

As the Commissioner was an officer of your Department, and the settlement of the affairs of the bureau, through which he made the disbursements in question, has been by law turned over to your Department, it seems to me that any further legislation needed to enable you to complete the administration of the duties arising therefrom should be presented to Congress through your Department, which has in its possession all the records and facts pertaining to the matter upon which the recommendation for additional legislation must necessarily be based.

Very respectfully,

B. H. BRISTOW,
Secretary.

Hon. ALPHONSO TAFT,
Secretary of War.

Thus the claimants have been deprived of their just dues for several years, including the time during which the subject rested with the late bureau, and the two years which have elapsed since the accounting-

officers testified that they could settle the claim in the usual manner, and that they were in process of settlement. It is therefore hoped that Congress will promptly legislate as suggested by this communication.

Very respectfully, general, your obedient servant,

THOMAS M. VINCENT,

Assistant-Adjutant General.

To the ADJUTANT-GENERAL OF THE ARMY,

Washington, D. C.

A.

A RESOLUTION authorizing the settlement of the claims for pay, bounty, prize-money, or other moneys due to colored soldiers, sailors, or marines, or their legal representatives, in certain cases.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting-officers of the Treasury be, and they are hereby, authorized and directed to settle the claims for pay, bounty, prize-money or other moneys due to colored soldiers, sailors, or marines, or their legal representatives in cases in which, upon proper investigation by the War Department, it shall be established that they have failed to receive payment upon settlements heretofore made, and in which vouchers purporting to represent actual payment have been filed with the accounting-officers of the Treasury by the disbursing-officers of the late Bureau of Refugees, Freedmen, and Abandoned Lands.

SEC. 2. That the investigations for the purpose of determining the facts as to the non-receipt by any claimant of the money purporting, by vouchers filed with the accounting-officers of the Treasury, to have been paid to him or her, shall be made under the direction of the Secretary of War, and in each and every case in which the investigation shall prove to his satisfaction that the claimant or claimants have not in fact received payment of their claims, he shall so report to the accounting-officers of the Treasury, who will thereupon settle the claim or claims to which such report by the Secretary of War shall pertain.

SEC. 3. That said settlements shall be made in accordance with existing laws governing the original settlement of such claims, and shall be chargeable against the same appropriations as were the original settlements.

SEC. 4. That nothing herein contained shall be construed as relieving the Commissioner of the late Bureau of Refugees, Freedmen, and Abandoned Lands, or the officers or agents acting under him, of any responsibility or accountability which, under existing laws or regulations, attaches to him or them in connection with any claim or claims to which this law has reference.

SEC. 5. Such expenses as may be necessitated by the investigations hereinbefore provided for, shall be defrayed by the Secretary of War from the appropriation for the "collection and payment of bounties, &c.," for fiscal year ending June 30, 1877.

Respectfully submitted to the Secretary of War.

E. D. TOWNSEND,

Adjutant-General.